



# Town Council Agenda Report

**SUBJECT:** Ordinance

**CONTACT PERSON/NUMBER:** Chris Wallace, 797-1050

**TITLE OF AGENDA ITEM:**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN TO CONFORM WITH CHAPTER 185, FLORIDA STATUTES; AMENDING THE DEFINITION OF FINAL AVERAGE EARNINGS IN ARTICLE ONE OF THE PENSION PLAN; AMENDING ARTICLE THREE OF THE PENSION PLAN TO REMOVE THE EIGHTY PERCENT CAP AFTER FORTY YEARS OF SERVICE, PROVIDING FOR EARLY RETIREMENT AT AGE FIFTY WITH TEN YEARS OF SERVICE, PROVIDING FOR PAYMENT OF OPTIONAL FORMS OF PAYMENT TO DISABLED RETIREES, AND PROVIDING FOR MINIMUM SERVICE CONNECTED DISABILITY BENEFITS OF FORTY-TWO PERCENT OF AVERAGE FINAL COMPENSATION; AMENDING ARTICLE FOUR OF THE PENSION PLAN TO PROVIDE FOR THE TEN YEAR CERTAIN AND LIFE ANNUITY AS THE NORMAL FORM OF RETIREMENT, PROVIDING FOR AN OPTIONAL SEVENTY-FIVE PERCENT JOINT AND SURVIVOR ANNUITY, AND REVISING THE METHOD OF DESIGNATING BENEFICIARIES; AMENDING ARTICLE SEVEN OF THE PENSION PLAN TO REQUIRE TOWN CONTRIBUTIONS AT LEAST QUARTERLY, PROVIDING THAT STATE CONTRIBUTIONS SHALL BE DEPOSITED INTO THE FUND IMMEDIATELY UPON RECEIPT, AND PROVIDING THAT MEMBER CONTRIBUTIONS SHALL BE DEPOSITED INTO THE FUND IMMEDIATELY AFTER EACH PAY PERIOD; PROVIDING FOR PROSPECTIVE ADJUSTMENT OF BENEFITS BASED ON THE RECEIPT OF CHAPTER MONIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:**

Changes in State Law require amendments to this plan in order to preserve state funding. The law requires the Town to provide extra unbargained pension benefits which will be funded by the increase in the money received from the state.

**PREVIOUS ACTIONS:**

Several pension plan amendments have been enacted over the years.

**CONCURRENCES:**

The pension board's attorney has represented that the pension board agrees to this change.

**FISCAL IMPACT:**

Has request been budgeted? Not Applicable

Additional Comments: funding for these additional benefits will purportedly come from increases in state funding; however, if funding from the state is insufficient, the plan will have to be amended prospectively.

**RECOMMENDATION(S):**

Motion to approve the ordinance at first reading, and recommend approval by second meeting only if agreed to in writing by the employee union.

**Attachment(s):**

Ordinance

Item No.

ORDINANCE NO.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE TOWN OF DAVIE POLICE PENSION PLAN TO CONFORM WITH CHAPTER 185, FLORIDA STATUTES; AMENDING THE DEFINITION OF FINAL AVERAGE EARNINGS IN ARTICLE ONE OF THE PENSION PLAN; AMENDING ARTICLE THREE OF THE PENSION PLAN TO REMOVE THE EIGHTY PERCENT CAP AFTER FORTY YEARS OF SERVICE, PROVIDING FOR EARLY RETIREMENT AT AGE FIFTY WITH TEN YEARS OF SERVICE, PROVIDING FOR PAYMENT OF OPTIONAL FORMS OF PAYMENT TO DISABLED RETIREES, AND PROVIDING FOR MINIMUM SERVICE CONNECTED DISABILITY BENEFITS OF FORTY-TWO PERCENT OF AVERAGE FINAL COMPENSATION; AMENDING ARTICLE FOUR OF THE PENSION PLAN TO PROVIDE FOR THE TEN YEAR CERTAIN AND LIFE ANNUITY AS THE NORMAL FORM OF RETIREMENT, PROVIDING FOR AN OPTIONAL SEVENTY-FIVE PERCENT JOINT AND SURVIVOR ANNUITY, AND REVISING THE METHOD OF DESIGNATING BENEFICIARIES; AMENDING ARTICLE SEVEN OF THE PENSION PLAN TO REQUIRE TOWN CONTRIBUTIONS AT LEAST QUARTERLY, PROVIDING THAT STATE CONTRIBUTIONS SHALL BE DEPOSITED INTO THE FUND IMMEDIATELY UPON RECEIPT, AND PROVIDING THAT MEMBER CONTRIBUTIONS SHALL BE DEPOSITED INTO THE FUND IMMEDIATELY AFTER EACH PAY PERIOD; PROVIDING FOR PROSPECTIVE ADJUSTMENT OF BENEFITS BASED ON THE RECEIPT OF CHAPTER MONIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR A REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has revised the requirements for police pension funds receiving state monies under Chapter 185, Florida Statutes; and

WHEREAS, the Town of Davie Police Pension Plan receives Chapter 185 monies and is governed by the recent amendments to Chapter 185;

WHEREAS, the Town of Davie Police Pension Plan received \$287,371 in Chapter money for the 1998 fiscal year, constituting an increase of \$7,273 over the Chapter money received for the 1997 fiscal year;

WHEREAS, the benefit improvements set forth herein do not exceed the \$7,273 in Chapter money available for the purchase of new benefits; and

WHEREAS, the Town of Davie Police Pension Plan and the Town of Davie will, on a continuing basis, evaluate Chapter money received to ensure continued compliance with Chapter 185, Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

Section 1: Article 1 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

- 1.17 Final Average Earnings. Each Participant's Final Average Earnings will be the higher of (i) the monthly average of his the Participant's Compensation for the last 36 consecutive months' period (or actual number if fewer than 36), or (ii) the average of the best five of the last ten years of service. The Plan will include in the averaging period any months when the Participant's Compensation is zero.

Section 2: Article 3 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

3.1 Normal Retirement.

- a. Amount of Normal Retirement Benefit. Beginning May 18, 1994, the Participant who retires on his Normal Retirement Date will receive a monthly benefit in an amount equaling (1) plus (2) as follows:

- (1) Three percent of his Final Average Earnings multiplied by his whole and partial Years of Service not in excess of 20 years.
- (2) Two percent of his Final Average Earnings multiplied by ~~his the Participant's~~ whole and partial Years of Service in excess of 20 years but not in excess of 30 years. After forty (40) years of service, benefits shall recommence at a rate of two percent (2%) per year.

~~No Participant will receive a monthly benefit greater than 80% of his Final Average Earnings.~~

3.3 Early Retirement.

- (a) Early Retirement Date. The Participant's Early Retirement Date is the first day of the month ~~he the Participant~~ has both reached his or her 50<sup>th</sup> birthday and completed ~~15~~ 10 Years of Service. The Participant's Early Retirement Date will be the first day of the month on or after his or her Earliest Retirement Date and before his or her Normal Retirement Date, when he or she actually retires.

3.5 Disability Retirement.

- (c) Amount of Retirement Benefit.
- (1) Disability not Resulting from Employment. The Participant

who retires because of a Disability that has not resulted from ~~his~~ the Participant's Employment will receive a monthly benefit in an amount equal to 1-1/2 percent of ~~his~~ Final Average Earnings multiplied by ~~his~~ the Participant's whole and partial Years of Service, or \$100 if greater, minus any monthly amounts received under either (A) the Social Security Act; (B) any State of Florida or County of Broward disability, age or unemployment law; or (C) any workers' compensation law to the extent permitted by applicable law, or if such offset is not permitted by law the offset will equal the amount by which the sum of the Plan benefit plus the workers' compensation benefit exceeds the Participant's monthly Compensation at the level in effect as of ~~his~~ the Participant's Disability date; provided that any such payment received in a nonperiodic form will be annuitized to the equivalent of a monthly benefit and that amount will be offset. A disabled participant may elect to receive any optional forms of payment available under Section 4.4

- (2) Disability Resulting from Employment. The Participant who retires because of a Disability that the Board determines has resulted from his Employment will receive a monthly benefit in an amount equal to the greater of (i) 66-2/3 percent of his base pay at the rate in effect as of his the Participant's Disability date, minus the offsets described above in Subsection (c)(1); provided that the benefit will not be less than the amount described above in Subsection (c)(1), or (ii) forty-two percent (42%) of final average earnings payable as a ten year certain and life annuity. A disabled participant may elect to receive any optional forms of payment available under Section 4.4

Section 3: Article 4 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

4.1 Normal Form of Payment.

- (a) Unmarried Participant. The normal form of benefit payable to the unmarried Participant will be ~~the single life annuity an unreduced ten year certain and life annuity described in Subsection 4.3(a) 4.4(c).~~ The participant may elect any optional form described in Section 4.3 4.4.
- (b) Married Participant. The normal form of benefit payable to the married Participant will be either the 60 percent joint and survivor annuity described in Subsection (b)(1) or an unreduced ten year certain and life annuity described in Section 4.4(c). When required by law, ~~his~~ a Spouse's written consent must be obtained under the procedures described in this Section.

4.4 Description of Forms of Payment. The value of each of the following forms of payment will be the Actuarial Equivalent of the benefit that

would be payable to the Participant ~~as a single life annuity~~ under the normal form of payment.

- (a) **Single Life Annuity.** The single life annuity is ~~a~~ an enhanced monthly benefit in the amount determined under the applicable provision of Article 3, beginning on the Participant's Benefit Commencement Date and payable throughout his or her lifetime, ending with the last payment due on the first day of the month preceding the month in which his or her death occurs.
- (b) **Other Joint and Survivor Annuity Forms.** The joint and survivor annuity is a reduced monthly benefit beginning on the Participant's Benefit Commencement Date and payable throughout ~~his~~ the Participant's lifetime, with either 50 percent, 66-2/3 percent, 75 percent or 100 percent of that monthly amount continuing for life to his or her surviving beneficiary, beginning on the first day of the month following the Participant's date of death.
- (c) **10 Years Certain and Life Annuity.** The 10 years certain and life annuity is ~~a reduced~~ an unreduced monthly benefit beginning on the Participant's Benefit Commencement Date and payable throughout ~~his~~ the Participant's lifetime, ending with the last payment due on the first day of the month in which ~~his~~ death occurs; provided that if the Participant dies within the 10 year period following the Benefit Commencement Date, payments will continue to his or her beneficiary for the remainder of the 10 year period. If the beneficiary dies within the 10 year period and there is no surviving contingent beneficiary, then the Actuarial Equivalent of any remaining monthly payments will be paid in a lump sum to the Participant's estate.

4.9 **Designation of Beneficiaries.** Each participant may designate one or more beneficiary(s), named sequentially or jointly, to receive any benefits which may be payable in the event of ~~his~~ the Participant's death after his or her Benefit Commencement Date. The Participant may revoke or change his or her designation from time to time by filing the proper form with the Board, and each change will revoke all ~~his~~ prior designations. To be effective, each designation, revocation or change must be made in writing on a form provided by the Board and must be signed and filed with the Board before the Participant's Benefit Commencement Date. The Participant who elects a joint and survivor annuity form of payment may designate only a single primary beneficiary. The Participant who elects the 10 years certain and life annuity may name one or more primary beneficiaries and one or more contingent beneficiaries; provided that if ~~he~~ the Participant designates multiple contingent beneficiaries, he or she must state either the order of succession or the percentage payable to each. If the Board considers it necessary, it will request a judicial determination as to whom payments should be made, in which event all expenses incurred in obtaining the determination may be charged against the payee. Any

substituted beneficiary will receive no more than the actuarial equivalent of the benefit previously calculated. A retiree receiving a joint and survivor form of benefit shall be permitted to change his or her beneficiary, as provided in Section 185.161 and 185.341, Florida Statutes. Upon failure of a member to designate a beneficiary, any benefit shall be paid to the deceased member's estate.

Section 4: Article 5 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

- 5.2 Death of Married Participant Resulting from Employment. The surviving Spouse of the Participant who has been married for at least one year, who dies before his or her Benefit Commencement Date, and whose death the Board determines has resulted from his Employment, will receive a monthly benefit in an amount equal to the greater of (i) 50 percent of the Participant's compensation at the rate in effect on his the Participant's date of death or (ii) the Participant's accrued benefit payable to the Participant's spouse on the date of what would have been the Participant's normal retirement date. . .

Section 5: Article 7 of the Town of Davie Police Pension Plan is hereby amended to read as follows:

- 7.1. Government Contributions.
- a. Town Contributions. The Town will make contributions in the amounts determined by the Board to be necessary to provide benefits under the Plan, based on the recommendations of the Plan's actuary. Town contributions will be irrevocable and will be used only for the benefit of Participants and beneficiaries, except as provided in Sections 7.4 and 8.2. The Town reserves the right to establish and to change from time to time the method for funding benefits, either through the use of one or more trust agreements or one or more group annuity contracts or other forms of insurance contracts. The Town will maintain the actuarial soundness of the plan. Town contributions shall be deposited into the Pension Plan at least quarterly.
  - b. Chapter 185 Contributions. Under Chapter 185 of the Florida Statutes, the State of Florida pays to the Police Pension Plan Trust certain monies received as premiums on casualty insurance written in the Town to help fund the cost of the age 55 Normal Retirement Age and other benefits not generally provided to other employees. In the event that the Plan's actuary determines that all such contributions are not needed for such purpose, the Board will use the excess to fund other benefits provided under this Plan, subject to approval of the Florida Department of Management Services, Division of Retirement, Bureau of Police and Fire Pensions, and the Town. The Board will maintain a separate accounting of these contributions but may merge them with other Plan assets for investment purposes. Any monies received or receivable by reason of laws of the state for the express purpose of funding and paying for retirement benefits for police officers of the city

shall be deposited in the Pension Plan immediately, and under no circumstances more than five (5) days after receipt by the City.

- 7.2 Employee Contributions. Effective May 18, 1994, as a condition of participation in the Plan, each Participant must contribute (via employer "pick-up") for each payroll period, through payroll deductions, an amount equal to five percent of ~~his~~ base pay. Between May 1, 1976 and September 30, 1977, each Participant was required to contribute an amount equal to five percent of base pay. Between October 1, 1977 and July 19, 1983, each Participant was required to contribute an amount equal to three percent of base pay. Between July 20, 1983 and May 30, 1983, each Participant was required to contribute an amount equal to 6-1/4 percent of base pay. Between June 1, 1983 and September 30, 1983, each Participant was required to contribute an amount equal to 4-1/4 percent of base pay. Between October 1, 1983 and May 18, 1994, each Participant was required to contribute an amount equal to 6-1/4 percent of base pay. Each Participant will be deemed to have consented to such payroll deductions. Member contributions shall be deposited in the Pension Plan immediately after each pay period.

Section 6: The benefit improvements provided for in Sections 1 and 4 of this ordinance have been determined to have an actuarial cost to the Plan. In accordance with Florida Statutes, Chapter 185, the cost of these benefits is to be funded exclusively from the increase in Chapter 185 insurance premium tax rebates over and above the level for the 1997 year. In the event that future Chapter 185 revenues are inadequate to maintain these benefits without an increase in the Town's contribution, the Town may, consistent with Florida law, prospectively amend the Plan to reduce these particular benefits. No such prospective reduction shall have the effect of divesting members or retirees of any rights accrued prior to such reduction. The Board of Trustees shall certify to the Town on an annual basis whether the Chapter 185 money is sufficient to maintain the benefits without an increase in the Town's contribution.

Section 7: If any clause, section, or other part or application of this Ordinance shall be held in any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

Section 8: All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 9: This Ordinance shall become effective as of December 31, 1999.

PASSED ON FIRST READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2000.

PASSED ON SECOND READING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2000.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2000.